



POLICE DEPARTMENT

April 14, 2011

MEMORANDUM FOR: Police Commissioner

Re: Detective Antonio Leon
Tax Registry No. 897862
Central Park Detective Squad
Disciplinary Case No. 84252/08

Police Officer Maria Diaz-Leon
Tax Registry No. 899144
23 Precinct
Disciplinary Case No. 84254/08

The above-named members of the Department appeared before me on October 21, 2010 and December 17, 2010, charged with the following:

Disciplinary Case No. 84252/08

1. Said Detective Antonio Leon, assigned to the 24th Precinct, while off-duty, on or about October 19, 2007, in Bronx County, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Detective engaged in a verbal and physical altercation with an individual, identity known to this Department, who is 14 years of age.

P.G. 203-10, Page 1, Paragraph 5 – PROHIBITED CONDUCT

Disciplinary Case No. 84254/08

1. Police Officer Maria Diaz-Leon, assigned to the 23rd Precinct, while off-duty, on or about October 19, 2007, in Bronx County engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Police Officer engaged in a verbal and physical altercation with an individual, identity known to this Department, who is 14 years of age.

P.G. 203-10, Page 1, Paragraph 5 – PROHIBITED CONDUCT

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POLICE OFFICER MARIA DIAZ-LEON

The Department was represented by Rudolph Behrmann, Esq Department Advocate's Office and the Respondents were represented by Peter Brill, Esq and Eric Sanders, Esq

The Respondents, through their counsel, entered pleas of Not Guilty to the subject charge A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review

DECISION

Not Guilty

- Respondent Antonio Leon (Leon) is found
- Leon (Diaz-Leon) is found Not Guilty

SUMMARY OF EVIDENCE PRESENTED

The Department's Case

The Department called [REDACTED], Police Officer Chamelle Reddick and Sergeant Tobia Hunter-Clark as witnesses

[REDACTED] is 17 years old and a full time student She is the biological daughter of Respondent Antonio Leon (Respondent Leon) On October 19, 2007 she was 14 years old and at approximately 3 or 4 p m she was getting ready to be taken to the 32nd Precinct stationhouse so that she could be picked up by her biological

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mother, Chameille Reddick She was making sure that her book bag had all of her school "stuff" including her uniform She explained that her custodial arrangement with her parents was that she was dropped off on Fridays and spent weekends with her mother The rest of the week she spent with the Respondents

She stated that as she prepared to leave for the stationhouse she became involved in a dispute with her father, Respondent Leon According to [REDACTED] she went into the kitchen and her father told her to open her bag so he could go through it She told him "no" because he had gone through her bag without telling her and had taken things, like hand lotion, combs, lip gloss and "little things," that her mother had given her [REDACTED] stated that if her stepmother (Respondent Diaz-Leon) had given her anything that she was allowed to keep it He did not tell her that he had taken any of these items and would not give them back to her She also claimed that if she asked for the items, he would not tell her that he took them and would blame her for losing them

On October 19, she recalled that she had lotion and aspirin in her bag When he asked where she got the aspirin, from she told him that she bought it with her money and his response was that he was not giving her any more money for lunch

[REDACTED] stated that she ultimately allowed him to look in the bag and when she opened the bag to take out the items, "He grabbed the bag from me and starts dumping all the contents on the floor" where they were in the kitchen When she attempted to pick the items up, he told her not to touch them At that point, Respondent Diaz-Leon entered the room and [REDACTED] stated that she "kicks my stuff around and starts laughing On her way out of the kitchen, she' - - [REDACTED] stated that she was unable to pick up her stuff from the floor "because my father wouldn't let me "

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She stated that while he was yelling at her to leave the stuff alone, he approached her, he "pushes" her and she "slam(s) into the wall. She was bending down and he approached her from the front and pushed with his two hands to get her away from her things and her right shoulder hit the wall.

Respondent Diaz-Leon came back into the kitchen and told [REDACTED] that she was acting like an animal. [REDACTED] then told her "Thank God you're not my mother. I told her I didn't want her to be my mother." Respondent Diaz-Leon then told [REDACTED] to go into the living room, but she went to her bedroom instead and called 911 because she claimed to be "terrified, [because] she didn't know what was going to happen." She explained that she wanted to get out of the house because she feared that they were not going to take her to her mother as planned.

When she spoke to the 911 operator, she gave her name and address and told the operator that she was "really scared and that he's grabbing at me and he's taking my stuff." She then went back to the kitchen to pick up her stuff. She said she had a makeup bag which she saw was on the top of the refrigerator with some of her friend's makeup in it. When she went to get it, Respondent Leon pushed her away and told her to leave it alone. [REDACTED] stated that she was now standing in the doorway between the kitchen and the little hallway. Respondent Diaz-Leon then entered the kitchen and grabbed her and pushed her into the hallway causing her to hit her head against the candlestick holder that was located on one of the walls. [REDACTED] added that at that point, Respondent Diaz-Leon yelled at her telling her that she is acting like an animal. [REDACTED] in turn told her that she did not want to live with them and she said, "Thank God you're not my mother." Respondent Diaz-Leon said, "Thank God, I'm not your mother." Respondent Diaz-Leon

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also stated that [REDACTED]'s mother did not care about her and further told [REDACTED] not to hit her father. [REDACTED] claimed that she never hit her father.

The police never responded to the 911 call and the Respondent proceeded to take her to the 32nd Precinct stationhouse. When they arrived at the stationhouse, [REDACTED] ran into the stationhouse, "crying and whatnot." Once inside she went to the front desk and told them what happened. She was sent into a room and in the presence of her mother and a police officer she wrote what she claimed had occurred in a domestic incident report.¹

[REDACTED] an ambulance and she was taken to [REDACTED] hospital. At the hospital she received X-rays and CAT scans and checked her shoulder and head and gave her Ibuprofen for her pain.

On cross-examination, [REDACTED] with her mother more than with her father. She was not happy that the Family Court Judge ordered her to spend the majority of her time with her father basically because he was stricter than her mother in certain ways; he disapproved of her wearing makeup and her mother did not. It was also more difficult with her father because he made sure her [REDACTED] was done.

[REDACTED] basically did not like the way her father and Respondent Diaz-Leon treated her. She did not like the idea that he could look in her bag because he took things out that were given to her by her [REDACTED] and would not allow her to keep them, for

¹ After reviewing the report this Court concluded that what [REDACTED] included in that report was consistent with her testimony at trial. The report was not admitted into evidence.

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example a makeup bag. He would also not want her to keep aspirin in her bag which she told him she needed for her cramps

When her father, Respondent Leon, wanted to check her bag that day [REDACTED] was not willing to let him and told him he could not. He had asked her about 3 times to take her the "stuff" out. She reiterated that when she opened and began taking the contents out one by one he grabbed it "and just throws everything onto the floor" and told her not to pick them up. He told her approximately 4 or 5 times not to pick the things up and each time she did not listen to him and continued to retrieve the items. Even though she was only 14 years old at the time she did not think she was disobeying him "because when he goes through my stuff, he takes things without cause." She admitted that she was ignoring him when she was telling him no and continued to try to pick the things up from the floor.

[REDACTED] stated that when he pushed her away, she hit the wall with her right shoulder. The distance she was pushed was approximately 2 feet. She did not fall to the floor. She also stated that she did not feel any pain at that point. When Respondent Diaz-Leon told her to go into the living room, she also did not listen to her and went into the bedroom because she was afraid they would not take her to her mother who was also a police officer with the Department.

[REDACTED] knew if she called 911, she could expect the police to come to the apartment because her family was police officers. She believed that the police would come and take her out of there and to her mother. She was not concerned about the

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police doing anything to her father and stepmother [REDACTED] also stated that she told the 911 operator that there were no weapons in the house and no one was hurt

[REDACTED] stated that when she saw her makeup bag on the refrigerator, she knew that she was not supposed to take it but she tried anyway because she wanted to take it when she left. She tried to take the bag twice and on the second try Respondent Leon pushed her away. She, not listening to her father, kept trying to take it and she admitted that he had to physically stop her from doing so. She then had a verbal argument with Respondent Diaz-Leon who told her she was acting like an animal, and for her not to put her hands on her father. She then heard her father walking and the sound of his keys and she knew he wanted to leave.

When they arrived at the stationhouse, her mother was there because that is the place for her to be picked up by her. There was no problem in the car and no discussion about what had occurred. At the precinct, she jumped out of the car and ran into the stationhouse and went to the desk where a police officer signs her in. She also saw her mother who came over to her. [REDACTED] stated that her mother, Police Officer Reddick, and the "people" behind the desk asked her what happened. Then the report was filled out and then at some point, Reddick wanted to know if an ambulance would be called. At the hospital, she was given pain killers.

On further cross-examination, she stated that her father previously told her that he did not want her carrying someone else's property such as bamboo earrings in her bag. But she did have them anyway. She added that her mother allowed her to carry those things in her bag. She acknowledged that when she called 911 she had locked herself in the bathroom and that no one tried to enter that room while she was there. She stated that

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no one prevented her from using her cell phone to call 911. She admitted that her father did not strike her with his hand. She also admitted that she told the 911 operator that her father "was grabbing me and he was grabbing at me and grabbing my stuff." She did not tell the operator that she fell or was pushed into the wall by her father because she claimed that she was "scared" and "was trying to rush just to get out of there." She stated that she did not tell the operator that Respondent Diaz-Leon struck her because that occurred after she made the call.

█████ stated that the candlestick holder is approximately 5 feet from the floor and claimed she was pushed into the candlestick holder by Respondent Diaz-Leon and hit the left side of her head. The candlestick holder is located in an adjoining small hallway next to the kitchen. █████ was in the doorway of the kitchen when she claimed that Respondent Diaz-Leon grabbed her. She stated that at that time she was trying to reach her bag. Her father was in the kitchen "in front of the refrigerator, but he wasn't in front of the bag." She denied leaping or reaching over her father to get the bag even though he was standing in front of her, nor did she have to reach around him. She further explained that "He was in front of the refrigerator, but he wasn't in front of the bag. When she reached for the bag, Respondent Leon told her to leave it alone. Rather than listen to her father, she "went to reach for the bag again." She stated that she did not have physical contact with him but it was then that he pushed her out of the way.

When she was asked how she got out of the kitchen she stated "when he pushed █████ of the doorway, the exit. When she grabbed me, she pushed me into the hallway. It wasn't a straight push, it was like a curved push. Into the hallway."

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When asked by the Court how she was pushed out of the doorway to the kitchen and then made a left turn into the other hallway into the candlestick holder, she explained that beyond the doorway to the kitchen, there is a wall that leads to the doorway to the hall with the candlestick holder. She stated that the wall runs about a foot before the doorway begins. She stated that Respondent Diaz-Leon not only pushed her through the doorway to the kitchen, she also somehow turned her body into the hallway with the candlestick holder and pushed her into that

When she was asked why Respondent Diaz-Leon told her not to touch her father, she said "I don't know. She just said don't touch your father and don't hit your father. She stated that Respondent Diaz-Leon was _____ father

_____ acknowledged that when the police investigators met with her, they determined that there were no physical injuries. When she also met with the second investigators, they wrote in their Domestic Incident Report that she did not have any

_____ explained that "there were no seen injuries." She insisted that she was physically injured

_____ testified that it was her mother that wanted her to go to the hospital and at the hospital she also wanted the various tests done on _____

Reddick is a 20 year member _____ She testified that she and Respondent Leon had a court ordered custody agreement where _____ was dropped off and picked up at the 32 Precinct stationhouse

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On October 19, 2007, Reddick was waiting for [REDACTED] at the stationhouse when she saw her run up to the front desk visibly upset [REDACTED] then told her what had happened with her father and Reddick asked for a police report to be filed to document what had happened

Reddick stated that [REDACTED] told her and an officer that they were struggling over a book bag and she was pushed by her father and pushed by her stepmother. A Domestic Incident Report was also filled out

On cross-examination, Reddick stated that she and the Respondent had "split custody of [REDACTED] where she spent weekdays with her father and weekends with Reddick

Sergeant Tobia Hunter-Clark

Hunter-Clark is a 14-and-a-half-year member of the Department currently assigned to [REDACTED] In December, 2007, she was assigned to the Chief of Detectives Investigations Unit and was assigned a domestic related incident involving the Respondents. Hunter-Clark reviewed page one from a domestic incident previously identified as DX 1 [REDACTED] was a Sergeant [John] Mondello who filled out the report. Hunter stated that [REDACTED] received "triage" treatment at the hospital for a minor head injury

[REDACTED] that there was in fact a physical altercation that did transpire between both parties [Respondents] and the complainant [REDACTED]. She concluded that [REDACTED] was in fact pushed up against a wall scone

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which caused her to have a minor head injury, and that there was tussling that happened between both subject officers and the complainant ”

On cross examination, Hunter-Clark stated that it was her understanding that the wall sconce was in the hallway off from the kitchen. She stated that the medical records indicated that there was some type of bruising to the head consistent with [REDACTED] statement. Hunter-Clark agreed that the medical records were the results of [REDACTED] telling the doctors or nurse that certain parts of her body hurt but that there were no objective observations of any injury.² After further review of the records, she stated “From what I get from this report is based on her [REDACTED] complaints they looked at her complaints. They observed that there was some tenderness in certain areas and that was pretty much it ”

Hunter-Clark stated that according to Sergeant John Mondello's notes when [REDACTED] first ran into the stationhouse, she ran to Reddick first and then Reddick informed Mondello that Respondent Leon shoved [REDACTED]

On further cross examination, Hunter-Clark stated that she believed that the Respondents were the primary aggressors in this case. She also stated that she never interviewed [REDACTED] in this case. Rather, by listening to tape recordings of [REDACTED] and her interviews with the Respondents, she “was able to come to my personal conclusions as to what I feel in fact happened ” She stated that in her interviews with the Respondents they “acknowledged that there was some form of shoving and grabbing ” When she was then asked if she knew whether [REDACTED] head on the

² It should be noted that the medical records for St. Luke's Hospital were only marked for identification (RX A) but were not offered into evidence because the handwriting was illegible. It should also be noted that causing injury to [REDACTED] was not charged in this case.

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candlestick holders she replied "you're right, no, I cannot have 100 percent A hundred

was a physical altercation that happened " She added that " whether the wall sconce was part of it or not, they were involved in an incident "

Hunter-Clark reviewed the Domestic Incident Report and stated that it indicated that there were no injuries to [REDACTED] Also in the analysis section of the report, there is no mention of injuries

The

Both Respondents testified in their own behalf

Respondent Antonio Leon

Respondent Leon is a 20 year member of the Department currently assigned to the Central Park Detective Squad He is married to Respondent Diaz-Leon and his daughter is [REDACTED] and his step-daughter is named Tasha Reddick, the mother of [REDACTED] was his common law wife with whom he had a long term relationship

Respondent Leon had a court-arranged custody arrangement of [REDACTED] Under that arrangement [REDACTED] would spend Monday to Friday with him and Respondent Diaz-Leon and on Fridays she would be dropped off at the 32 Precinct stationhouse to be picked up by Reddick to spend the weekend at her mother's house He stated that he is more strict with [REDACTED] than Reddick is because he does not allow her to wear make-up or certain types of jewelry While he has not seen her wear make-up, he has seen make-up kits in her bag on several occasions

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Respondent Leon stated that he periodically inspects [REDACTED] bag, actually a backpack for her books, because she does not keep it neat. When he does, he finds such things as forms that were supposed to be turned in and on two occasions he has found make [REDACTED] friend

On October 19, 2007, he observed that [REDACTED] bag seemed to be "overflowing." After asking her why her bag was so heavy, he asked her to clean it out. This did not mean for her to dump everything out. It was meant for her to take the items out and to straighten it out. He stated that she basically ignored him. He asked her again about three or four times and then took the bag and opened it up. When she ignored him he began to wonder what she was trying to hide from him.

Respondent Leon took the contents out and as he placed them on the table he discovered two make-up kits and a set of bamboo earrings along with papers and other [REDACTED]. When he asked her about one make-up kit she said it was her friend's and when he asked about the other one she said "who do you think it is" which meant to him that it was hers.

As she was standing to the right of him, he began passing her items to her and she placed them back in her bag. He did not, however, give her back her make-up kit and bamboo earrings and moved them away from her. When he did this, "she kind of pressed against me, as I moved the kit out of her arm, and then about two or three more shoves and she basically jumped on my back, trying to free the makeup kit." According to Respondent Leon, there was no conversation, just [REDACTED]ing for the kit and [REDACTED] them away from her. He stated that she jumped on his back but added that her feet were not off the ground. It was more like she was

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pushing against him, leaning and reaching over him, to reach past him to get the items and he in turn was pushing the items away from her. He stated that "I'm just using my body, still blocking or just still in front of the table but still making her not able to get the items off the table."

At that point Respondent Diaz-Leon entered the kitchen and pulled [REDACTED] off his back and told her to go to her room. [REDACTED] told Respondent Diaz-Leon that she was not her mother and then "stormed off into the room." Respondent Leon then packed [REDACTED]'s bag and was ready to leave. Respondent Diaz-Leon had already walked out of the door and they called for [REDACTED] to come with them. Respondent Leon explained that [REDACTED] was in front of me and we walked toward the door. As I get shoulder length with the refrigerator, then she literally lunged backed toward me to try to retrieve the makeup kit that was on top of the refrigerator." He stated that she was pushing up against him and was able to get hold of the makeup kit while he was still trying to push her off of him.

Respondent Diaz-Leon heard the scuffling and came back and separated them. [REDACTED] faced her towards the entrance to the kitchen and told [REDACTED] to go downstairs. Respondent Leon could not see if [REDACTED] was pushed into the candlestick holder because "you can't

that corner unless you actually step into that—which is a very tight area, so it's not enough for three people. I basically maintained in the kitchen while Maria and [REDACTED] was towards the entrance of the kitchen." In describing the candlestick holder he stated "It's a sturdy holder but it was being held by a small nail, because I used I used to knock it over every time I'm bringing stuff into the hallway. It would fall off, like, you

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know real simple " He did not remember if it was knocked over on that day, but it did not appear damaged

Respondent Leon stated that [REDACTED] was not crying and did not complain about being hurt Nor was she holding any part of her body in a way that would indicate she was injured When they arrived at 32 precinct stationhouse, [REDACTED] jumped out of the car and ran into the stationhouse When Respondent Leon went into the stationhouse he saw Reddick and [REDACTED] together at the front desk Respondent Leon did not know that [REDACTED] called 911 until weeks later

On cross-examination, Respondent Leon stated that [REDACTED] while living with him was not a problem child On October 19, he stated that they were basically hanging out, eating and watching T V He stated that in general if he saw something in [REDACTED]'s bag that he felt was inappropriate he would remove it When her bag was emptied out he did not feel there was a problem with [REDACTED] until she started reaching for the makeup kit

He stated that when she was on his back he did not push her off, he just shifted his body He did not put his hands on her or push her into a wall When [REDACTED] attempted to remove the makeup kit from [REDACTED] pushed up against me and I just basically pushed my body up against her to avoid her getting the makeup kit "

Respondent Maria Diaz-Leon

Respondent Diaz-Leon testified that Respondent Leon did not accurately describe the experiences they have had with [REDACTED] When she first met [REDACTED] they had an excellent relationship where they "did everything together " Gradually Reddick resented their close relationship Respondent Diaz-Leon stated that gradually they began to have

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problems with [REDACTED] where her mother was not dropping her off when she was supposed to and things went missing in the house

[REDACTED] s bag by Respondent Leon was something he has done since she was a young girl because she was not a tidy child, "her mother would send her to us in the same clothes that we sent her with. The clothes weren't washed, they were dirty. This was stuff that we had to point out to her that she had to keep up. That she had to keep up her appearance, her clothing, her book bag, on a periodic basis."

They were also very concerned that [REDACTED] would have in her bag makeup kits, razors that you shave with, food, opened candy sitting for days, crumpled paper and homework that hadn't been turned in. She had also downloaded information from the internet on gang activities including their signs, their colors and what they wear. According to Respondent Diaz-Leon, these were the things that [REDACTED] was doing when she was with her mother. She would also have medication in her bag—Tylenol and Sudafed and makeup kits and earrings. There were also photographs of [REDACTED] without clothes on. She also found in [REDACTED] s handwriting, how she described how she "feels about a certain boy, like the same feeling she gets when she drinks vodka." Respondent Diaz-Leon added that these were the reasons why she and Respondent Leon wanted to closely monitor [REDACTED].

On October 19, 2007, as Respondent Diaz-Leon was entering her home, she heard [REDACTED] telling her father "no" and heard him tell her to open up her bag and again heard her say "no." Respondent Diaz-Leon then heard a scuffle and she saw [REDACTED] hitting and pushing her father and trying to get the book bag out of his hand. Respondent Diaz-

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Leon said that Respondent Leon did not testify to this encounter because [REDACTED] is his daughter and he is basically reluctant to say bad things about her. When [REDACTED] saw Respondent Diaz-Leon she jumped away from her father.

According to Respondent Diaz-Leon, the contents of the bag fell to the floor and she asked Respondent Leon what was going on. He told her that [REDACTED] was refusing to open the bag for him to check the contents. At this point, [REDACTED] was trying to put the makeup kits, earrings and medicine back into the bag. Respondent Leon put the makeup and the earrings on the table and he was trying to get the medicine from [REDACTED] but she refused to give it to him. [REDACTED] was also trying to get the makeup kits from the table and in her attempt to do so "she tried to reach over him and grab the makeup kit off of the table and my husband turned to block her from getting access to the makeup on the table."

Respondent Diaz-Leon, while standing in the doorway to the kitchen, grabbed [REDACTED] by her sleeve and pulled her off him. [REDACTED] then told Respondent Diaz-Leon that she was not her mother and told Respondent Leon she hated him. Respondent Leon told [REDACTED] to get ready so he could take her to meet her mother.

[The Court admitted into evidence photographs of the Respondent's apartment showing the kitchen, the small hall containing the candlestick holders, a photo of [REDACTED] in the kitchen and a photo of Respondent Diaz-Leon next to the candlestick holders (RX D1 through D8)³]

Respondent Diaz-Leon stated that when she pulled [REDACTED] from her father, [REDACTED] did not hit the wall or any objects in the apartment including the candlestick

³ The transcript refers to the exhibits as RX C1 through C8 but the actual exhibits were marked in the "D" series.

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holder on the wall. She further explained that "There's no way that she—for me to slam her into the candlestick holder, unless I physically pick her up and slam her into it, because the candlestick holder sits above my head by maybe an inch or two, and she was my height or an inch shorter than me at the time. There's no way that she would have hit the candlestick holder."

Respondent Diaz-Leon stated that she had concerns for the safety of [REDACTED] because her mother allowed her to do whatever [REDACTED] [REDACTED] was up "two, three o'clock in the morning on school nights," allowed to wear revealing clothes and gang colors which could put her in harms way by letting the wrong people think she was a gang member.

Respondent Diaz-Leon further testified that when they were ready to go the 32nd Precinct stationhouse, [REDACTED] did not want to leave the apartment but finally relented. When they arrived at the stationhouse, [REDACTED] jumped out of the car, ran directly to her mother in the stationhouse and began talking loudly and Reddick told her to be quiet. After having a conversation, they both approached Sergeant Mondello at the desk and again Respondent Diaz-Leon heard [REDACTED] yelling about her father, but she could not hear what she was saying.

On cross-examination, Respondent Diaz-Leon stated that she did not have a scuffle with [REDACTED] nor did she step in between them. She took [REDACTED] by her sleeve and pulled her to the side and did not touch her in any other manner. When she pulled [REDACTED] away, she did not pull her into the hallway, she "pulled her over to the second chair that was in front of the table. That was when she attempted to snatch the makeup kit off of the refrigerator in the kitchen prior to us leaving."

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FINDINGS AND ANALYSIS

Disciplinary case Nos 84252/08 and 84254/08

The Respondents' specifications mirror each others' in that they are each charged with engaging in a verbal and physical altercation with [REDACTED] who was 14 years of age at the time of the incident

The evidence presented at this trial indicates that [REDACTED] was not forthright with her account of what occurred on October 9, 2007. It is not in dispute that she had the items in her bag that the Respondents forbade her to have: makeup, bamboo earrings, medicine and school papers that should have been dealt with in a timely manner. The Respondents also knew that she wore inappropriate clothing and gang colors and that she appeared in photographs without clothes.

[REDACTED] was adamant in her belief that she could possess those items forbidden by the Respondents and she further believed that she had the right to keep them from having any knowledge or control over what she chose to do as evident by the fact that she tried to keep them out of her backpack. She was also under the belief that they did not want her to have anything that her mother, Reddick, allowed her to have. This was made clear when she stated that they would not let her have things that her mother gave her but if her stepmother gave it to her then she could keep it. Based on these beliefs, when her father asked to look into her bag she, at 14 years of age, told him "No" three times and attempted to ignore him.

When Respondent Leon began removing items that he did not want her to have, she began to fight him for control of them. Her thinking was that even though she was only 14 years old she did not think she was disobeying him "because when he goes

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through my stuff he takes things without cause " When he put her makeup kit on the table and refrigerator, she tried to get them because she wanted to take them when she left to meet her mother This Court does not find [REDACTED] credible where she claimed that she did not touch her father in her attempt to get those items As determined as she was to get them, there is no doubt that she, as the Respondents testified, reached for them in any way that she could including leaning over or partially jumping on her father's back to accomplish her goal She admitted that she tried so hard to get her things that he had to stop her from doing so

[REDACTED] claimed that she was pushed up against a wall by her father and also pushed into a candlestick holder by her stepmother This Court, again, finds her not credible for the following reasons she called 911 because she believed that the police would come and take her to her mother, She told the 911 operator that "he's grabbing at me and he's taking my stuff" She made no mention of being pushed into a wall, but seemed more concerned that he was "taking my stuff" She did not mention being pushed into the candlestick holder by Respondent Diaz-Leon because she claimed that did not happen yet

This Court, however, finds the Respondents testimony credible in that this Court does not find that they did anything to physically harm [REDACTED] Those accusations appear to be [REDACTED] way -perhaps so she would be rid of the Respondent's control of her In addition, with regard to her being pushed into the candlestick holder, even with this Court giving the photographs of the apartment a minimum amount of weight, it finds that the holder was in a position away from where she claimed to be pushed in the kitchen and even if she was somehow nudged

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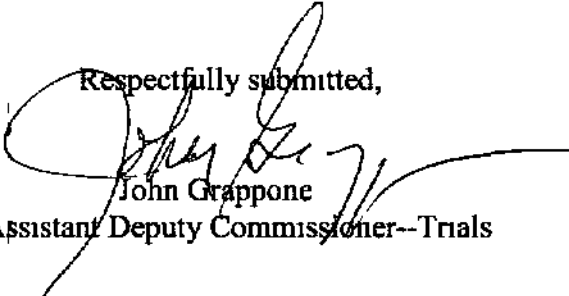
into that hallway it is highly unlikely that her head would have reached the holder given her approximate height and their location on the wall

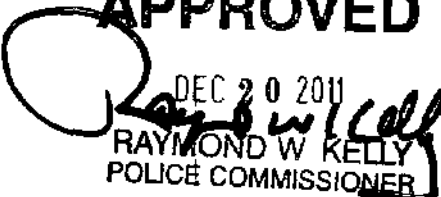
When she was taken to the hospital, extensive tests revealed no discernable injuries, but the hospital staff

It is this Court's conclusion that the Respondents were comporting themselves as responsible parents on a child that apparently has too many influences affecting her daily interests

Based on the foregoing, this Court finds both Respondents Not Guilty

Respectfully submitted,


John Grappone
Assistant Deputy Commissioner--Trials

APPROVED

DEC 20 2011
RAYMOND W. KELLY
POLICE COMMISSIONER